

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-972V

Filed: November 2, 2016

UNPUBLISHED

DONNIE JORDAN,

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Petitioner,

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v.

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SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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Respondent.

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John Robert Howie, Jr., Howie Law, P.C., Dallas, TX, for petitioner.

Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On August 10, 2016, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of his September 11, 2015 influenza (“flu”) vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 31, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent has concluded “that petitioner’s alleged injury is consistent with a shoulder injury related to vaccine administration (‘SIRVA’) and recommends that compensation be awarded in this case.” *Id.* Respondent further agrees “that a preponderance of evidence establishes that the injury to petitioner’s left

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

shoulder was caused-in-fact by the administration of his September 11, 2015, flu vaccine, and that petitioner's injury is not due to factors unrelated to the administration of the flu vaccine." *Id.* at 3-4. Respondent also indicates that the "the statutory six month sequela requirement has been satisfied" and concludes that petitioner's "left shoulder injury is compensable as a 'caused-in-fact' injury under the Act." *Id.* at 4.

In view of respondent's concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master